IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2329 OF 2007

Laxmichand Bhule Valmiki.... Petitioner

versus

State of Maharashtra and ors..... Respondent.

Mr.Chaturvedi i/b.Chaturvei & Associates for the petitioner.
Mr. C.J. Sawant Sr.adv. i/b Mr. V.C.Gosalkar for the respondent. 1 and 2.
Mr. S.R.Shinde APP for Respondent no.1.

CORAM; A.P. DESHPANDE, J.
DATED; 17TH DECEMBER, 2007

P.C.;

1. Rule. Rule made returnable forth with. Taken up for final hearing by consent of parties.

2. Leave to amend with a view to impugn the order dated 15-12-2007 passed by Judicial Magistrate, First Class. Uran. Amendment to be carried out forthwith.

3. The petitioner joined the employment with the respondent company at its factory at Uran sometime in the year 1970. The premises in question were made available to the petitioner for his and his family member’s occupation at a monthly rent. The petitioner retired from service on attaining age of

superannuation on 7-10-2003 but did not vacate the premises. The petitioner filed Civil Suit bearing No.79/03 and sought injunction from dispossession from the premises. The temporary injunction application came to be rejected. The respondent no.2 filed private complaint under section 630 of the Indian Companies Act before JMFC being complaint No.595/03. JMFC allowed the complaint and convicted the petitioner for offence punishable under section 630 of Indian Companies Act and sentenced to pay a fine of Rs.500/- in default of payment of fine to suffer S.I. for ten days. The petitioner also came to be directed to hand over the possession of the premises within a period of four months from the date of the order and in default to suffer S.I. for three months. The order passed by the JMFC is dated 2-7-2007. The stay application moved by the petitioner in Criminal Appeal seeking stay of the judgment and order passed by JMFC came to be rejected and aggrieved thereby the present writ petition has been filed.

4. The petitioner has placed on record a duly sworn affidavit stating therein that the petitioner would vacate the premises on or before such date as this court may fix. It is further stated in the affidavit that the petitioner and his family members are in exclusive possession of the premises. The respondent

company has produced a cheque drawn in favour of the petitioner in the sum of Rs. 1,05,105.60/-, which according to the respondent no.2 company is the amount due and payable to the present petitioner towards the retiral dues. The respondent has deducted a sum of Rs. 24,500/- towards rent/compensation from the date of retirement till this date. if and in case there is any dispute, in regard to the deduction of rent/compensation, it shall be open for the parties to litigate for the same before appropriate forum. However, parties are in agreement that the petitioner shall vacate and hand over the peaceful possession of the premises in question to the respondent company on or before the expiry of a period of 30 days from today. A statement to this effect has been re-iterated by the learned counsel for the petitioner on the instructions from his client who is present in the court. The undertaking is taken on record and marked as 'X' for identification. The order passed by JMFC dated 2-7-2007 shall not be executed for a period of 30 days from today, on or before which date the petitioner shall vacate the premises and hand over peaceful possession thereof to the respondent company. Failure on the part of the petitioner to hand over possession of the premises within a period of 30 days from today as undertaken, would make the order dated 2-7-2007 passed by JMFC, Uran, executable against the

present petitioner. The respondent company has handed over the cheque for Rs.1,05,105.60/- dated 17-12-2007 drawn on State Bank of India to the learned counsel for the petitioner.

5. It is brought to my notice that JMFC Uran has passed an order on 15-12-2007 directing the petitioner/accused to surrender before the trial court on or before 5-1-2008 failing which warrant be issued for execution of the order dated 2-7-2007 passed by JMFC Uran is quashed and set aside. On compliance of the undertaking by the petitioner by handing over possession within 30 days, the impugned order dt.2-7-07 shall stands quashed and set aside.

6. With the above directions, the writ petition stands disposed of. Rule made absolute in the above terms.

...